

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

STATE FARM MUTUAL  
AUTOMOBILE INSURANCE  
COMPANY,

Plaintiff,

v.

ARMANDO MOSQUEDA, et al.,

Defendants.

Case No. 1:23-cv-00539-JLT-CDB

**ORDER STAYING PROCEEDINGS IN  
THIS MATTER AGAINST DEFENDANT  
GIOVANNI FERGUSON PURSUANT TO  
11 U.S.C. § 362**

**ORDER REQUIRING PLAINTIFF TO  
FILE STATUS REPORT AS TO OTHER  
SERVED INDIVIDUAL DEFENDANTS  
AND READINESS TO PROCEED AS TO  
OTHER DEFENDANTS INTO  
SCHEDULING CONFERENCE**

**21-DAY DEADLINE**

(Doc. 8)

Plaintiff State Farm Mutual Automobile Insurance Company (“State Farm”) initiated this action with the filing of a complaint on April 6, 2023, against Defendants: (1) Armando Mosqueda; (2) Edward Mosqueda; and (3) Giovanni Ferguson. (Doc. 1). Effective May 30, 2023, Defendants Armando and Edward Mosqueda waived service and their answers or pre-answer motions are due today (July 31, 2023). (Docs. 5, 6). State Farm has not filed a summons returned executed as to Defendant Ferguson and the time to do so has passed under Fed. R. Civ. P. 4(m).

On July 20, 2023, State Farm filed a notice of suggestion of bankruptcy indicating that on May 11, 2023, Defendant Ferguson filed for bankruptcy in the United States Bankruptcy Court for the Eastern District of California for relief under chapter 7 of the United States Bankruptcy

1 Code (the “Bankruptcy Code”). (Doc. 8). The bankruptcy case is pending under case number  
2 23-11003 (Jiovanni Ferguson). The case remains pending as the date of this Order.

3 Pursuant to Section 362 of the Bankruptcy Code, all actions against a defendant who has  
4 filed a bankruptcy petition are automatically stayed once the petition is filed. 11 U.S.C. § 362(a)  
5 (staying “the commencement or continuation, including the issuance or employment of process,  
6 of a judicial, administrative, or other action or proceeding against the debtor that was or could  
7 have been commenced before the commencement of the case under this title, or to recover a claim  
8 against the debtor that arose before the commencement of the case under this title.”); *see also*  
9 *Sternberg v. Johnston*, 595 F.3d 937, 943 (9th Cir. 2010). However, a suit against a co-defendant  
10 is not automatically stayed by the debtor’s bankruptcy filing. *In re Miller*, 262 B.R. 499, 503 &  
11 n.6 (9th Cir. 2001) (citations omitted).

12 A scheduling conference is currently set for September 13, 2023. (Doc. 7). As noted  
13 above, neither Defendants Armando nor Edward Mosqueda have answered and no proof of  
14 service for Defendant Ferguson has been returned. Given this status, the Court will not vacate the  
15 scheduling conference yet, and shall order State Farm to file a status report within twenty-one  
16 (21) days indicating whether this action should proceed in some manner against Defendants  
17 Armando and Edward Mosqueda into the scheduling conference or if this matter should be stayed  
18 in its entirety. *See Parker v. Bain*, 68 F.3d 1131, 1137 (9th Cir. 1995) (“All proceedings in a  
19 single case are not lumped together for purposes of automatic stay analysis. Even if the first  
20 claim filed in a case was originally brought against the debtor, section 362 does not necessarily  
21 stay all other claims in the case. Within a single case, some actions may be stayed, others not.  
22 Multiple claim and multiple party litigation must be disaggregated so that particular claims,  
23 counterclaims, cross claims and third-party claims are treated independently when determining  
24 which of their respective proceedings are subject to the bankruptcy stay.”) (quotation and citation  
25 omitted).

26 Accordingly, IT IS HEREBY ORDERED that:

- 27 1. All proceedings in this matter against Defendant Jiovanni Ferguson only are  
28 STAYED pursuant to Section 362(a) of Title 11, United States Code.

2. Within **twenty-one (21) days** of service of this order, State Farm shall file a status report as to Defendants Armando and Edward Mosqueda indicating whether this matter should be stayed in its entirety and all matters vacated, as described above in this order.

IT IS SO ORDERED.

Dated: July 31, 2023

  
UNITED STATES MAGISTRATE JUDGE